

Docket No. G2622-908496  
Appl. No. 09/539,772  
Preliminary Amendment filed with RCE Request

**REMARKS**

The Office Actions dated January 22, 2003 and May 9, 2002 have been carefully reviewed. In consideration of the new matter rejection in the May 9, 2002 Office Action, Applicant has resubmitted the original specification as a new substitute specification. For the Examiner's convenience, a clean copy of the substitute specification submitted with this Amendment, which is also the original specification filed on March 31, 1999, is also submitted with this Amendment. Claims 14-47 have also been cancelled. The new substitute specification and the cancellation of claims submitted with the November 12, 2002 make the new matter rejections in the May 9, 2002 Office Action moot.

With the present Amendment, Applicant adds new claims 48-90. New claims 48-60 correspond substantially to original claims 1-13. Therefore, Applicant respectfully requests reconsideration of the grounds of rejection in the May 9, 2002 Office Action in view of the above amendments and the remarks herein.

In the earlier Office Action dated May 9, 2002, claims 1-3, 5-7, 10-11 and 13 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Pat. No. 4,841,387 to Rindfuss. Claims 4, 8-9 and 12 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Rindfuss in view of U.S. Pat. No. 5,172,281 to Ardis et al. New claims 48-60 substantially correspond to these original claims, respectively.

The claims, as amended and re-presented, require an assessment system that is comprised of at least one predefined measurement item used to structure observation and assessment of observable events or phenomena. The system further comprises means for presenting a subject or operator with the predefined measurement item, and means for recording at least one observable event associated with the presented measurement item and storing the recorded observable event as a track of event data sequenced by a track of address data. For each presented measurement item, the system further comprises means for associating the measurement item to at least one portion of the event data in an index database, the index database including at least one field denoting the measurement item and at least one field denoting address data for the portion of the event data associated with the measurement item.

Rindfuss teaches linking handwritten notes to a recording through indexes based upon the physical location of the handwriting on a page of paper to the stream of recorded data. The system in Rindfuss uses a touchpad located beneath the paper to acquire spatial location data, further indexes by page number. When amendments or additions to notes are made,

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additional index entries are generated and maintained, requiring manual entry of the previous page number if a prior piece of paper is the target of the amendment or addition to the notes. Replay requires manual entry of page numbers and physical contact with the paper in the approximate area of the recorded location to generate a touchpad signal that can be used to access the correlated recording.

The May 9, 2002 Office Action states that Rindfuss teaches presenting a subject or operator with a measurement item at Col. 1, line 59 through Col. 2, line 2. However, Rindfuss only refers to events and handwritten notes. Neither events nor handwritten notes are equivalent to predefined measurement items, as required by the claims, as amended. A "measurement item", as cited in independent Claims 48, 54, 80 and 85, is "used to structure observation and assessment of at least one observable event or phenomena." Measurement items, as used in the present invention, are predefined terms and/or instructions used as a tool or instrument for the purpose of systematic and standardized observation and assessment. The handwritten notes in Rindfuss do *not* contain instructions for the purpose of systematic and standardized observation and assessment, and are certainly not predefined. As described in the present application at Page 10, lines 20-27, the measurement items presented by the inventive system may be a series of questions to be used as a guide for an assessment interview. In this example, each question is a "measurement item", and the present invention indexes the recorded event data track for each measurement item, i.e. question. Measurement items may also include definitions, inquiries, instructions, directions or other tasks. (Page 12, line 18).

Significantly, measurement items used in the present invention are *predefined*. In one embodiment, the predefined measurement items are pre-existing (Page 11, lines 1-4), and are also used independently of the inventive system (see also SCAN example, Page 11, lines 20-28). In an alternative embodiment, an interview designer generates a set of measurement items prior to the event or events to be recorded (Page 12, lines 17-29). In all cases, the measurement items are defined *before* use with the inventive method and system. The inventive method and system relies on the measurement items to structure the systematic and standardized observation and assessment of events or phenomena.

Furthermore, the claimed invention requires *associating* predefined measurement items with a portion of the recorded events through an index database to form a digital record of indexed inquiries and indexed responses. (Page 11, lines 9-20). This index provides the means to compare events from different subjects or groups of subjects on the basis of the

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associated measurement items in order to investigate potential relationship and/or trends, as well as the means to organize an assessor's notes. The ability of the inventive system to perform real-time indexing as events occur, as well as post-processing organization of information is not taught or suggested by Rindfuss or Ardis.

Ardis likewise fails to teach or suggest predefined measurement items used to structure the observation and assessment of observable events or phenomena, wherein the record of at least one observable event associated with a measurement item is automatically indexed in a database linking the measurement item to a portion of the event record. The system in Ardis only discloses post-processing of transcripts, and is in no way related to the automatic generation of an index during recording. Ardis only teaches a separate software system for laborious manual entering of index information after a deposition has been recorded.

### Summary

Applicant respectfully requests favorable reconsideration of this application, as amended. Claims 48-90 are pending, with Claims 48, 54, 80 and 85 being independent claims.

Should the Examiner believe that further amendments are necessary to place the application in condition for allowance, or if the Examiner believes that a personal interview would be advantageous in order to more expeditiously resolve any remaining issues, the Examiner is invited to contact Applicant's undersigned attorney at the telephone number listed below.

To the extent necessary, Applicant petitions for an extension of time under 37 CFR § 1.136. Please charge any shortage in fees due in connection with this application, including extension of time fees, to Deposit Account No. 50-1165 (Attorney Docket No G2622-908496) and credit any excess fees to the same Deposit Account.

Respectfully submitted,

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